

Board of Selectmen
January 14, 2013

PRESENT: Rick Griffin, Chairman
Richard Nichols, Vice Chairman
Michael Pierce, Selectmen
Ben Moore, Selectmen
Philip Bean, Selectmen
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney

6:30 PM Non-meeting RSA 91-A:2, II, (b)

7:00 PM Public Meeting – Selectmen’s Meeting Room, Downstairs Town Offices

SALUTE TO THE FLAG

I. Public Hearing – RSA 79-E

1. Sea Spray Condominium Development Tax Relief Application Request

Atty. Stephen Ells presented the Sea Spray Condominium Development Tax Relief Application on behalf of Mr. Greene.

In the presentation of Atty. Ells, he spoke to the applications merits and he explained how the information within the application meets the criteria of RSA 79-E, which the Board must find has been met in order to grant the request. He went through each part of the application in great detail for the Board. He reminded the Board that they have 45 days to render their decision on the application. He also spoke on the tax impact to the Town if the application is approved.

Atty. Gearreald thinks that Atty. Ells referenced very nicely the criteria in RSA 79-E:7. Atty. Gearreald asked Atty. Ells about the following Roman numeral II, Roman numeral III, RSA 9-B, Roman numeral IV and Article 31 from 2011 Town Meeting. Atty. Ells commented on all the questions asked by Atty. Gearreald.

Atty. Gearreald spoke of the consequences if the Board was to grant the relief the developer along with future owners would realize a lower tax bill than the building value and asked Atty. Ells how it fits into the scheme that the owners would realize a lower tax bill. Atty. Ells addressed the concerns raised by Atty. Gearreald.

Atty. Gearreald asked about RSA 79-E:5 allows the governing body to grant a relief for up to a certain number of years and wonders how many years Atty. Ells is asking for the relief to be granted. Atty. Ells stated that they are asking for the full 5 years and explained why.

Questions from the Board

The following members of the Board asked questions and made comments which were addressed by either Atty. Gearreald or Atty. Ells.

Mr. Moore asked questions and made comments as follows: taken deposits for some units and are they subject to the tax relief being granted, has the AG's office approved the documents, purchase date by Mr. Greene of the property, residential housing expected to be occupied year round and minimum period for tax relief according to State statute.

Mr. Pierce commented on how future buyers reap the benefits of this tax relief yet they have not taken a risk like Mr. Greene is doing.

Chairman Griffin asked questions and made comments as follows: impact fees that have been addressed at the level of the Planning Board and asked about the tax relief being made up at the end of the period of relief.

Mr. Bean asked questions and made comments as follows: thanked them all for coming, RSA 79-E:7 components and asked specific questions to be addressed and proportionality for a smaller tax relief period.

Chairman Griffin commented that the public hearing will be recessed until February 4, 2013 at which time it will be reopened.

II. Public Comment Period

Gary Kubik, 22 C Street, spoke on the consequences of trash pick-up being reduced to 1 time a week.

III. Announcements and Community Calendar

Mr. Pierce announced that the Recycling Committee is looking for another member.

Mr. Bean announced the wonderful art program going on with Provident Bank. Mr. Tinios was elected Restaurant Tour of the Year. Mr. Merrill is wrapping up tenure as Head of the Chamber.

Chairman Griffin mentioned the passing of Norm Bolyea's daughter and expressed his condolences to the family.

IV. Appointments

1. Michael Schwotzer
 - a. Monthly Financials

Mr. Schwotzer here to discuss first pass at the financials for December 2012 which is also year-end. In income he discussed: Motor Vehicle Income, Building Permits, State of NH, Departmental Income, Parking Lots, Rental of Town Property and the Real Estate Trust. In expenses he discussed: YE Savings being under expended by only \$32k, expended 99.85% of budget, operating costs include \$129k of Grant expenditures which can be added to the budget thereby increasing the estimated under expenditure figure, next two weeks financial results will continue to be reviewed and adjusted, will be returning on January 28th for further update and lastly there is a second analysis showing the major items being encumbered along with a copy of the outstanding/open 2012 Purchase Orders. He also asked the Boards permission to open a 2012 Purchase Order for \$14,350 this is to be used to update the Town

of Hampton code book. He explained to the Board that there were quotes for this back in August, he was asked to do this by Mr. Welch and it was his failure that this was not done. He went through several of the open Purchase Orders for the Board.

Discussion

The following members of the Board asked questions and made comments that were addressed by Mr. Schwotzer.

Mr. Pierce asked questions and made comments as follows: surprised how they went down from the expected \$300k in YE Savings, Police Department \$28k in the hole, listed out other departments that were over expended and expressed concern with sewer project money being encumbered in 2012 for work going to be done in 2013. Mr. Schwotzer addressed the issue of some departments being underspent and others being over expended.

Mr. Moore asked questions and made comments as follows: Rye sewer agreement under revenues, Undesignated Fund Balance, open PO's of \$733k, Cable Fund for the truck, Private Detail Fund and Police Forfeiture Fund both being charged for a Tahoe, PO for Marine II, PO's for Town Clerk and Election accounts, uniforms in Police Department, money for a saddle seems a little excessive, \$33k for redo of HVAC system discussed previously at around \$20k and PO for crushed gravel/stone for DPW.

Mr. Nichols asked questions and made comments as follows: confirmed the open PO for \$30k for box van for Cable TV which draws the fund down to \$44k from \$120k in the summer, PO's for Winnacunnet Road intersection and issue he has spending more on this until voters have a chance to vote, expressed concern with the \$100k for sewer repairs and read the section of the municipal budget law related to lapse of appropriations, after reading the law does not see how we can encumber this \$100k so he does not think this PO can go forward, the same applies to PO in Police Department for Police Special testing, substantial over expenditure in DPW and other departments that were over expended, believes that the governing body must approve the over expending of any line item, never had a negative amount for a total department line item since he has been a Selectman and lastly touched on the impact of the use of the Undesignated Fund Balance. Mr. Schwotzer addressed Mr. Nichols concern in regards to over expended line items and his interpretation of the law. Mr. Welch also discussed his interpretation of the statute and rules that can be set by the Board in regards to over expending a line item.

Mr. Moore commented that they have discussed the sewer problems on the corner of Winnacunnet Road and Lafayette Road and possibility of repairs to sewer even if the intersection work is not completed.

There was an additional discussion amongst Mr. Moore, Mr. Nichols and Mr. Pierce in regards to the PO for \$100k for sewer repairs.

Mr. Nichols does not think that they should be going forward with the \$100k since it is against what the statute allows.

Mr. Bean asked questions and made comments as follows: thanked Mr. Schwotzer for his report, like to talk about revenues, revenue from State are down 3%, the revenues from Town up and listed what they were up by, the Town is not getting fair share from the State, drill down on incident reporting, establish cost for the State and going to work with Mr.

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Schwotzer and others to address the issues with State. And that he is meeting with Mr. Schwotzer and the auditors this Wednesday on the subject of implementing GASB 45.

Mr. Moore followed up on what Mr. Bean spoke about in regards to GASB 34 and whether or not it is appropriate for any Selectman should be talking to the auditors without the Board knowing. Mr. Moore was comfortable with Mr. Bean speaking with the auditors.

Mr. Nichols MOTIONED to remove the \$100k for the sewer work under Winnacunnet Road for a contract that does not exist. Mr. Pierce SECONDED.

Discussion on motion

Mr. Schwotzer commented that it is whatever the Board wishes and he was using this as a vehicle to get the work done.

Chairman Griffin is fine with doing it the way that Mr. Schwotzer has proposed.

Mr. Moore commented that they have done this in the past, discussed this many times, have used the word encumbrance before, and it has been transparent so he is fine with this. And the Finance Director is following the direction that was provided earlier in the year from the Board.

Mr. Pierce is not ok with this PO since in his opinion it does not follow the statute. He does not think this is a clean thing to do to encumber money in 2012 for work to be done in 2013.

Mr. Nichols commented that if they had done the work and had a contract he would be in favor of this but he is absolutely opposed to encumbering an amount of money that the statute says they have to have a legally enforceable obligation and they have something listed here with a company of an obligation that does not exist.

Mr. Nichols reiterated that the motion was to remove the \$100,000.

Mr. Bean requested that he may comment. Mr. Bean asked of Mr. Welch if the statute says may and Mr. Welch stated that it does for transfers but this is a wholly different subject. Mr. Bean questioned Mr. Nichols if this is a point of law; Mr. Nichols stated that he would say so. Mr. Bean asked the question of "did they get the Town Attorney's opinion" and Mr. Gearreald indicated in the negative.

VOTE: 2-3(Griffin, Moore), Bean-0

Mr. Schwotzer asked if the Board will approve the purchase order for \$14,350 for the code book as discussed and requested above.

Mr. Moore MOTIONED to approve the purchase order for \$14,350 for the code book. Mr. Bean SECONDED.

Discussion on motion

Mr. Pierce does not think that this should be done and he is definitely against this.

VOTE: 3-2(Pierce, Nichols)-0

2. Brian Evans
 - a. M Street Memorial

Chairman Griffin explained that they have done some work here and discovered on a petitioned article that was done in 2007 that pretty much states that the names of the streets

have to come from Military Personnel who have lived most of their lives in the Town of Hampton and have given their lives in the line of duty. Chairman Griffin went into further details of the warrant article and the naming/dedicating of a street.

Mr. Evans explained that he is not here to name the street but instead have it dedicated. He was told by Mr. Pierce last time to get a petition and Mr. Bean to get a design. He has done both of these things. Chairman Griffin stated that he would have to get a petitioned warrant article. Mr. Evans expressed concern that he was not told this at the last meeting. Mr. Evans shared with the Board in detail what he has done since he was last here in regards to the petition. He also shared changes that are being made in laws as a result of his mother's untimely death. He reminded the Board that this is not a request for street names change but instead a dedication to his mother. He really believes that he did what the Board asked him to do.

Discussion

Chairman Griffin made comments as follows: stated that everyone has taken a look at his petition and all that he has done, comments they have received from the public as a result of this request and if a motion is made tonight and Mr. Evans does not like the results he can always do a petitioned warrant article. Mr. Evans expressed again that he was not asked to do that last time he was told to do a petition and that is what he did.

Mr. Bean made comments as follows: thanked him for coming up, does not want Mr. Evans to feel that the Board is not sympathetic to his mother's passing and asked for some direction from the Chair on how he would like to handle this.

Chairman Griffin commented: that if anyone likes more information they should talk to the attorney, he had suggested that he talk to Mrs. Martin in the Recreation Department and possibility of a scholarship.

Mr. Pierce commented that he also received many phone calls mostly from people who supported the warrant article the Chairman referred to earlier.

Mr. Pierce MOTIONED to allow a memorial attachment in the form of a dedication be placed on the street sign on M Street. Mr. Nichols SECONDED.

Discussion on motion

Mr. Bean questioned where this goes from here if approved. Mr. Evans described the sign.

There was a discussion on the current dedications in place.

Mr. Moore commented as follows: memorial streets all for public safety personnel, confusion to the public, some public safety concerns, there have been thousands of people who loved Hampton Beach, does not want to setup a criteria in regards to memorializing streets, encourage him to come up with other ways to memorialize his mother and lastly if he was a street dedication he is going to need a petitioned article in March of 2014.

Mr. Bean pointed out that in the minutes from the meeting in November he did suggest that Mr. Evans come up with a plan B.

VOTE: 2-3(Pierce, Moore, Griffin)-0

Mr. Pierce shared why he voted against the motion.

Mr. Evans was very agitated by the results of the vote taken by the Board.

3. Charlie Preston

a. Parking and Transportation Related Issues at the Beach

Mr. Preston thinks timing is of the essence. He would like to talk about the following: parking at the beach, the intersection of Ashworth and Brown Ave, possible improvements to this area, possible signalization and entrance to the Casino in this area, control the flow of traffic at the beach, entrances to the Town parking lots, parking system to pay by time used, equal chance to all, short and long term parking use, take time to digest and don't be quick to jump, parking administrators to work together to achieve goals for resident parking, funds available for these improvements, all work together can come up with some great ideas, listed out all the people who can work together on this and lastly would like the Board to think about some of these ideas.

Discussion

Mr. Pierce commented that he is not sure the Town has any control over the use of the funds Mr. Preston brought up,

Chairman Griffin stated that this is up to the HBAC and they will bring their ideas to the Board.

Mr. Moore commented that there is free parking in areas for residents.

Mr. Nichols commented on the revenue from the Precinct parking.

Mr. Preston wonders if negotiating can be done in regards to additional parking through the Precinct.

Chairman Griffin stated that they will take this under advisement.

Mr. Preston brought up the possibility of increased revenue.

V. Approval of Minutes

1. January 08, 2013

Mr. Pierce MOTIONED to APPROVE the Minutes of January 08, 2013 as submitted. Mr. Bean SECONDED.

VOTE: 5-0-0

Mr. Nichols reminded the Board that they still do not have the minutes from the non-public meeting on December 27th.

VI. Town Manager's Report

1. The Chief of Police requests permission of the Board to dispose of unit 303 a 2003 Ford Expedition that has been certified as unsafe and unfit for the roadway and to utilize the resulting funds for the benefit of the Police Department.
2. All of the procedures have been completed by the Budget Committee and the Selectmen to complete the warrant for Town Meeting. We are in the process of completing the warrant for your signatures at your meeting this evening

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3. A public Hearing has been scheduled concerning the discontinuance of the TV Special Revenue Fund on February 11
4. The office received a call from the State concerning the plowing of old Route 1A at the State Pier. The State was informed that since it is a State Highway we do not plow that roadway.

Other items added to the report

Mr. Welch discussed the following items: asked the Board to get their questions together for the State Legislators so that they can be forwarded to them prior to them coming to the meeting on January 28th, CIP final report from the Planning Board, resolution has been sent off to the appropriate members at the State level, complaints received in regards to the sidewalks at the beach, draft winter maintenance policy from DPW has been received, bid being awarded for polymers and sodium chlorite at the WWTP, run down on what's coming up for the next couple of agendas, provided details on the bid for sewer pump station that was discussed last week and lastly discussed the options for funding sewer pump station.

Discussion

The following members of the Board asked questions and made comments which were addressed by Mr. Welch.

Chairman Griffin asked him to discuss the complaints received in regards to the sidewalks.

Mr. Moore asked questions and made comments as follows: asked him to forward the information on Ashworth Ave to him, Whites Island issue discussed in the past, amounts are the same as the motion made last week for Church Street Pump Station, Transfer Station document in regards to how much was billed to DRED; and HB 122 will be heard on Wednesday and asked if one of them should go up to this hearing. Mr. Welch made comments in regards to HB 122 explaining it in further detail for the Board.

Mr. Nichols made comments and asked questions as follows: agrees with the amount of the Church Street Pump Station if they take the route suggested by Mr. Noyes, however he questions some aspects in regards to wage cost, would like to see a comparison from the Finance Director in funding prior to approving, value of unit 303 when looking it up on Kelly Bluebook, have a procedure of disposal of equipment and the money going to the general fund, memo on future agendas and public hearing on the Sea Spray.

Mr. Bean commented that he would like input from the DPW Director on the sidewalk issue.

There was an additional discussion on the disposal of Town property.

Mr. Moore MOTIONED to authorize the disposal of unit 303 from the Police Department in accordance with Town policy. Mr. Pierce SECONDED.

VOTE: 5-0-0

Mr. Pierce questioned if the CIP will be placed on the website.

VII. Old Business

1. Joint Operations Plan – DRED and Town of Hampton

Mr. Welch made comments as follows: DRED sees no reason to make changes and just sign and move on, we would like to end the disposal of sand and explained why, need to improve

the recycling percentage, issues with items being sold at State Store, raking at the beach and possibility of in the future the State contracting this out and with Boards permission would like to sit down with the State and put an end to the process of the State disposing of the beach raking material at the Transfer Station.

Discussion

Mr. Nichols made comments and asked questions as follows: pointed out that the State does pay the Town for the raking material, discussed why they went three years without taking care of the material, wonders where the State would store this if it was not at the Transfer Station and would be in favor of allowing Mr. Welch to discuss this with the State and see where it goes from there. Mr. Welch made some suggestions on how the State can handle the raking material.

There was a consensus amongst the Board that Mr. Welch should address this with the State.

Mr. Bean made comments as follows: would like special attention given to the Beach in the summer, especially when it comes to the Hampton businesses and terrible condition of the sidewalks.

Chairman Griffin also commented on the condition of the sidewalks and things the State has promised in regards to the sidewalks. He also shared a comment he received in regards to the condition of the sidewalk on High Street between Towle Farm and Route 1.

Mr. Welch shared a conversation he had with DRED in regards to the sidewalks and they plan to only maintain from Haverhill to the monument. There was a continued discussion on the sidewalks and how the sand is the worst it has been.

Other Old Business

Mr. Nichols made the following comments on the CIP Report: miscommunication between the CIP Chair and Planning Department, issues with CIP being different then the Town's plans, made Tracy Emerick aware of the discrepancies, item from the schools, do the Selectmen want to give the Planning Board a copy of their plans so the report can be updated, the cut off for any reports to be put into the Town Report is January 25th so there is time and importance for the taxpayer to see the updated CIP. So the question is does the Board want to provide an updated report or do we want to go with the report that is inconsistent with the Boards plans. Mr. Moore commented that this would not be the first time. Mr. Pierce stated it could be left the way it is but have it dated.

Mr. Nichols made comments on the following in regards to bank account risk management: brought up a couple of weeks ago the issue of the sun setting of the unlimited FDIC deposit insurance on deposits effective January 1, 2013, read response from Ellen Lavin Treasurer and basis covered from a risk management standpoint.

Chairman Griffin commented on the notice sent out in regards to trash pick-up and the confusion/questions that have come up as a result of the notice. Chairman Griffin expressed real concern with this change and the problems that are going to arise from this change. They may have needed to hold a public hearing on this. Mr. Moore commented that the change only effects locations at the beach. Mr. Nichols shared a concern that he received in regards to once a week pick-up during the summer. Mr. Welch will take a look into the notice. Mr. Welch brought up the philosophy that if I bring out my trash everyday it will be

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picked up and that is what happens. Mr. Welch stated that if it needs to be changed we need to address it now. Mr. Pierce questioned why the condominiums would have more trash in the summer and Chairman Griffin stated that is because they are not occupied in the winter. There was also a discussion on the Planning Board authorized pick-up more than once a week in the condo docs. Mr. Welch will review the condo docs.

VIII. New Business

1. Signing of the 2013 Warrant

Mr. Pierce MOTIONED to APPROVE the signing of the 2013 Warrant. Mr. Nichols SECONDED.

VOTE: 5-0-0

Other New Business

Mr. Welch presented the Board with the cover for the 2012 Town Report.

Mr. Moore would like the item added to the agenda in regards to sunset dates for some of the committees.

Mr. Nichols stated that it seems that more and more hard copies of information/notices are being passed out as opposed to email. He would like to see things sent out as emails whenever possible.

IX. Consent Agenda

1. Intent to Cut Lumber- 478 Exeter Road/ Map 36-7 & 49-1
2. Limousine License – Robert Grande
3. Raffle Permit “Krempels Center” Susan Chase, Krempels Center thru 02/15/13
4. Coastal Convenience Combination Bev/Wine/Tobacco Liquor License 560 High Str.

Discussion on Consent Agenda

Mr. Moore asked questions on item 1 and Item 3.

Mr. Nichols asked about Item 2 and Item 3.

Mr. Nichols MOTIONED to MOVE the Consent Agenda. Mr. Bean SECONDED.

VOTE: 5-0-0

X. Closing Comments

XI. Adjournment

A motion was made by Mr. Nichols to go into a non-public session under RSA 91-A:3,II, (c), this motion was seconded by Moore. A roll call vote was taken, and all 5 Selectmen were in favor

Mr. Pierce MOTIONED to adjourn the public meeting. Mr. Moore SECONDED.

VOTE: 5-0-0

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Chairman